



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 30, 2015

CBCA 4448-RELO

In the Matter of CHARLES L. GRAVAT

Charles L. Gravat, Franklin, TN, Claimant.

James E. Hicks, Office of Chief Counsel, Drug Enforcement Administration, Department of Justice, Springfield, VA, appearing for Department of Justice.

SULLIVAN, Board Judge.

Claimant, Mr. Charles Gravat, challenges the denial of his request that the Department of Justice, Drug Enforcement Administration (DEA), waive its demand for the repayment of relocation expenses paid by DEA to Mr. Gravat when he transferred from Nashville, Tennessee, to DEA headquarters in Washington, D.C. We deny Mr. Gravat's claim.

Background

On January 24, 2012, Mr. Gravat signed a service agreement for the payment of relocation expenses incident to his transfer to DEA headquarters. By signing this agreement, Mr. Gravat agreed to remain in the service of the Federal Government for at least twelve months following the date on which he reported for duty at his new duty station. Mr. Gravat further agreed that, if he did not fulfill this twelve-month commitment, he would repay all monies the DEA had paid toward his relocation expenses.

Mr. Gravat reported for duty in Washington, D.C., on June 2, 2012. Mr. Gravat retired from the DEA on November 30, 2012. In his notice of appeal to the Board, Mr. Gravat explained that his family remained in Tennessee when he transferred to Washington and, because it became too expensive to maintain two households, he retired.

By letter dated March 7, 2013, the DEA sought repayment of the \$4108.07 that the DEA had reimbursed Mr. Gravat for expenses incurred when he transferred to Washington, D.C. This amount was paid to Mr. Gravat on three different vouchers and included the payment of a withholding tax allowance to cover the estimated tax amounts Mr. Gravat owed on the relocation expenses for which he was reimbursed.

By letter dated May 21, 2013, Mr. Gravat appealed the demand for repayment. The basis for Mr. Gravat's appeal was that the DEA knew of his intent to retire prior to the decision to transfer him, and the DEA waited five months after he retired to seek the repayment. The agency denied Mr. Gravat's appeal by letter dated April 10, 2014. The DEA also sent Mr. Gravat letters dated July 29, 2014, and September 9, 2014, but Mr. Gravat did not receive this correspondence until September 19, 2014.

On January 15, 2015, the Board docketed Mr. Gravat's appeal of the agency's denial. The agency submitted its response to Mr. Gravat's appeal on March 10, 2015, and Mr. Gravat submitted his reply to the agency's response on April 6, 2015.

In reviewing the record, the Board found that the agency had not submitted documentation supporting its demand for repayment of \$4108.07 for relocation expenses. Because Mr. Gravat asserted in his appeal to the agency that he had been reimbursed less than the amount sought by the agency and had been required to pay taxes on the amount, the Board ordered the agency to provide "an explanation regarding how the amount sought was calculated with supporting documentation." The agency submitted additional documentation on April 15 and May 21, 2015. Mr. Gravat submitted responses to the agency's further submissions on May 14 and June 18, 2015.

Discussion

The Government reimburses an employee for relocation expenses that are incurred when an employee transfers from one duty station to another in the interest of the Government. 5 U.S.C. § 5724 (2012). To obtain reimbursement of relocation expenses, an employee must sign a service agreement and agree to remain employed by the Federal Government for at least twelve months following the effective date of the transfer. 5 U.S.C. § 5724(i); 41 CFR 302-2.13 (2012). If the employee does not fulfill the terms of this agreement, the employee must reimburse all costs that have been paid by the agency towards the relocation expenses. 41 CFR 302-2.14 ("[I]f you violate a service agreement (other than for reasons beyond your control and which must be accepted by your agency), you will have incurred a debt due to the Government and you must reimburse all costs that your agency has paid towards your relocation expenses, including withholding tax allowance (WTA) and relocation income tax (RIT) allowance.").

“The determination whether or not to release an employee from [a] service agreement is a matter of agency discretion.” *Carlos N. Lacy*, CBCA 1059-RELO, 08-2 BCA ¶ 33,887, at 167,715. The Board reviews the agency’s denial of a waiver request to determine if there is a reasonable basis for it. *Jose A. Baeza*, CBCA 2097-RELO, 10-2 BCA ¶ 34,575, at 170,462 (citing *Fred L. Tribbitt*, CBCA 1737-RELO, 10-1 BCA ¶ 34,384; *David F. Lytal*, CBCA 1433-RELO, 09-1 BCA ¶ 34,090).

The DEA denied Mr. Gravat’s appeal, finding that he had voluntarily retired from the agency and not fulfilled the requirements of his service agreement. The agency determined that, although Mr. Gravat had been transferred after he had given notice of his intent to retire within a year, he signed the service agreement and accepted reimbursement for relocation expenses. Therefore, he was on notice regarding his obligation to fulfill the terms of his service agreement.

On appeal to the Board, Mr. Gravat asks the Board to overturn the agency’s demand for repayment because the agency has taken so long to prosecute its claim against him.¹ Mr. Gravat notes that it took five months following his retirement for the agency to assert its demand for repayment and then another eleven months for the agency to respond to his appeal, although he did not receive notice of that decision for seventeen months. As a result of the agency’s lack of diligence, Mr. Gravat contends that he filed tax returns and made other financial decisions for his family based upon the extra income received in 2012, decisions that would have been different without this extra income.

While it is unfortunate that this lack of diligence on the part of the agency has had this result, Mr. Gravat signed the service agreement and was on notice that he would have to repay any relocation benefits if he did not fulfill the terms of that agreement. Mr. Gravat does not challenge the agency’s determination that he retired voluntarily or that he failed to fulfill the terms of the service agreement as a result of his decision to retire.

The Board has reviewed all of the documentation submitted by the agency and finds that the agency has provided support for the amount that it seeks. Mr. Gravat asserts that he did not receive the entire amount sought by the agency; instead, a portion was withheld and paid as federal taxes. The service agreement that Mr. Gravat signed explained that, if Mr. Gravat failed to fulfill the terms of his service agreement, he would have to repay “all

¹ Mr. Gravat also asks that his appeal be granted because the agency has not submitted responses in a timely manner to the Board. While the agency has not complied strictly with the deadlines set by the Board, the tardiness of the agency’s responses in this case does not provide a basis for granting Mr. Gravat’s claim.

costs the [DEA] has paid towards [his] relocation expenses,” and those costs include amounts withheld from Mr. Gravat and paid as taxes. The statement in the service agreement is consistent with the statutory requirement that “the money spent by the Government, for the expenses . . . is recoverable from the employee” if the employee violates the agreement. *See* 5 U.S.C. § 5724(I). The documentation submitted by the agency reflects payment of these amounts. The fact that Mr. Gravat did not receive a portion of these amounts directly does not eliminate the requirement to reimburse monies paid by the Government on his behalf.

Decision

Mr. Gravat’s appeal is denied. The DEA may collect from Mr. Gravat \$4108.07, pursuant to the terms of the service agreement he signed prior to his transfer.

MARIAN E. SULLIVAN
Board Judge